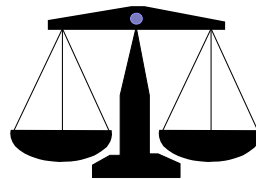


CITY OF CINCINNATI



Fourth Status Report to the Independent Monitor

May 12, 2003



Cincinnati Police Department

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I. INTRODUCTION

In April 2001, the Mayor of Cincinnati, and other interested persons within the City, requested the United States Department of Justice (DOJ) to conduct a review of the Cincinnati Police Department's (CPD) policies and procedures, specifically those that related to the use of force. This request indicated the City's commitment to minimizing the risk of excessive use of force in the CPD and to promoting police integrity. In response to these requests, the DOJ launched this investigation pursuant to authority granted under 42 U.S.C. 14141, the Violent Crime Control and Law Enforcement Act of 1994.

The DOJ's investigation, conducted with the full cooperation of the City, included extensive interviews with City and CPD officials, CPD officers, leaders of the Fraternal Order of Police (FOP) and the African-American police officers' association (Sentinels), community members and civil rights organization representatives.

At the close of the investigation, which lasted approximately one year, the DOJ determined that the jurisdictional requirements of 42 U.S.C. 14141 were sufficiently satisfied to permit the parties to enter into this Memorandum of Agreement (MOA). As a result of the City's and the CPD's high level of voluntary cooperation and willingness to implement meaningful change, the DOJ believed this MOA, rather than contested litigation, represented the best opportunity to address the DOJ's concerns. On April 11, 2002, history was made in the City of Cincinnati. The City of Cincinnati and the United States Department of Justice entered into this landmark agreement.¹

At the same time, representatives for the City, the Cincinnati Black United Front (CBUF), the American Civil Liberties Union of Ohio (ACLU), and the Fraternal Order of Police (FOP) executed the **Collaborative Agreement (CA)**. Brought about in part by a series of legal actions citing patterns of discrimination by police, this latter agreement also served as an alternative to court litigation. Under this agreement the Federal District Court introduced a process where various stakeholders in the community could examine the broader social conflicts in the city by gathering the views of as many citizens as possible on improving the relationship between police officers and the community. Through the distribution of questionnaires and a series of public meetings involving different segments of the community, the following goals became the cornerstones of the Collaborative Agreement:

1. Police officers and community members will become proactive partners in community problem solving.
2. Police officers and community members will build relationships of respect, cooperation, and trust within and between the police and the citizens.
3. Police officers and community members will work to improve education, oversight, monitoring, hiring practices, and accountability of the Cincinnati Police Department.

¹ Neither the City's entry into this Agreement, nor its decision to implement changes in CPD policies and procedures is an admission by the City, the CPD, or any officer or employee of either, that any of them have engaged in any unconstitutional, illegal, or otherwise improper activities or conduct.

4. Police officers and community members will ensure fair, equitable, and courteous treatment for all by members of the police department.
5. Police officers and community members will create methods to establish the public's understanding of police policies and procedures and to recognize exceptional service provided by members of the police department.

Implementation of both agreements will not only reform police practice, but will enhance trust, communication, and cooperation between the police and the community. The settlements have fostered a union that has motivated all segments of the community to come together and focus on building the positive and productive relations necessary to maintain a vibrant city core and surrounding metropolitan area. The City of Cincinnati is enthusiastic and committed to this endeavor and has already begun initiatives to involve virtually all City departments in the process.

The two agreements will be overseen by an Independent Monitor. Consistent with the consensus decision-making process incorporated in the collaborative process, all collaborative partners unanimously selected the independent monitor.

The Monitor issued the Independent Monitor's First Quarterly Report ("Monitor's First Report") on April 1, 2003. The Report noted some areas in which the CPD had fully complied with the MOA, and noted other areas in which improvements were still required.

This Report is intended to advise the Monitor as to the substantial progress that the CPD has made since the Monitor's First Report was issued.

II. GENERAL POLICIES

A. MENTAL HEALTH RESPONSE TEAM

The MOA's requirements with regard to the MHRT are located at paragraph 10.

Monitor's Previous Assessment

In the Independent Monitor's First Quarterly Report ("Monitor's First Report"), the Monitor noted: "Our initial impression of the MHRT is very positive, although we have some questions on the CPD policy and MHRT interpretation." Specifically, the Monitor expressed a desire to further evaluate the following areas:

- The extent of MHRT coverage;
- The number of supervisors who have undergone MHRT training;
- Continuing training (presumably for established members of the MHRT);
- How the MHRT is replenished when officers leave the team;
- Whether any new training classes have been conducted.

Status Update

1. *Extent of Coverage*

In response to the comments in the Monitor's First Report, the CPD has initiated two new tracking procedures: a daily tracking procedure to record where and when MHRT officers are deployed, and a process to track the number of MHRT officers assigned to the Patrol Bureau. The CPD hopes these tracking procedure will assist it in determining what shifts and what districts have the greatest need for MHRT officers, and in determining the number of MHRT officers in the Patrol Bureau as a whole. Ultimately, these new tracking procedures should address coverage issues by helping the CPD to identify when a need exists to recruit and train new MHRT officers and by ensuring that MHRT officers are scheduled when and where the need is the greatest.

In addition, to provide maximum availability of MHRT trained officers, each district will:

- Modify the daily lineups to include information regarding the number of MHRT officers deployed for each shift. Each morning this information will be relayed to the Patrol Bureau Administration Office, where it will be entered into a database for tracking purposes.
- Ensure the MHRT officers are equally divided among the three shifts.

- Ensure the MHRT officers are equally divided among the various off day groups.

To ensure that MHRT officers are dispatched on calls involving mentally ill individuals, the Police Communications Section has implemented the following procedures:

- The current Standard Operating Procedure (SOP) for Police Communications Section already requires that MHRT officers be dispatched to Code 9 and Code 9V calls. If no MHRT unit is available in the district, PCS will dispatch a MHRT unit from another district.
- Effective May 1, 2003, PCS will change the dispatch code for these incident types from Code 9/Code 9V to MHRT/MHRTV. This will further remind dispatchers to send MHRT units on those types of incidents.
- The dispatcher will make an entry in the miscellaneous field for MHRT and all MHRT calls will indicate one of the following dispositions:

MHD – A MHRT unit was dispatched to the call
MHNA – A MHRT unit was not dispatched because all MHRT units citywide were busy.
MHNW – There were no MHRT units working in the city.
- PCS will revise its SOP and disseminate a training bulletin to reflect the addition of this extra field.
- With the addition of the field, PCS will be able to perform a query indicating the percentages of MHRT calls handled by district MHRT officers, out of district officers, or non-MHRT units. These reports will be forwarded to the Patrol Bureau Administration Office.
- PCS will perform an internal query on the miscellaneous field to ensure dispatchers are properly coding MHRT calls.

2. *MHRT Training of Supervisors*

Supervisors receive a minimum of 8 hours specialized training in mental health issues. Supervisors, in our view, are not to be experts in all areas but to manage and deploy the expert resources available. Other examples of situations where supervisors are expected to defer to the judgement of experts are homicide scenes, serious traffic accidents, and hostage/barricade situations. In these examples, specially trained personnel manage incidents with supervisors present.

Moreover, in many instances, CPD policy balances the roles of the specialists and the supervisor. Often the technical expert becomes responsible for management of the scene. CPD believes the supervisor and MHRT trained officer will interact in two scenarios:

- a. The mental health consumer facing crisis and in need of mental health services.

Often the mentally ill individual is cooperative or passive. In this situation the supervisor will confer with the MHRT officer to obtain information on how best to resolve the crisis.

- b. Mentally disturbed individual who has taken or threatens to take offensive action.

Here the MHRT officer can provide useful information towards managing the incident. These scenarios most often become incident management, which become the responsibility of the supervisors, who have undergone formal training in critical incident management.

3. *Training*

Continued training programs for established MHRT officers are still being developed. The Police Academy staff are currently working with the Mental Health Association to design in-service training. Currently, the existing MHRT officers are being surveyed to review and determine the appropriateness of prior training and to recommend additional training. CPD will notify Monitoring Team when training is being offered to allow observation. At this time, the projected date for the in-service program is July-August 2003.

4. *Replenishment of MHRT Officers*

The CPD believes the aforementioned tracking procedures will assist with the replenishment of MHRT officers by identifying when a need exists to recruit and train new members.

In addition, the Police Academy, in conjunction with the Patrol Bureau, will continue to track staff changes quarterly to ensure adequate numbers of MHRT officers are available at all times.

B. FOOT PURSUIT

The provisions of the MOA related to foot pursuit are located in paragraph 11.

Monitor's Previous Assessment

The Monitor's First Report noted that "the language of CPD's foot pursuit policy complies with the requirements of the MOA." In addition to finding CPD's foot pursuit policy in compliance with the MOA, the Monitor recommended that the CPD examine the policy implemented by Collingswood, N.J., P.D. to determine if additional training or policy revisions are warranted. Further, the Monitor expressed a desire to evaluate the dissemination of the 1/24/03 policy to officers, as well as how officers are being trained under the new policy.

Status Update

1. *Collingswood N.J. Policy*

The Planning Section reviewed the Collingswood policy and used it as the basis for the new CPD foot pursuit policy.

2. *Dissemination of New Policy*

The new procedure was published in the Department Staff Notes dated September 2, 2002. All CPD personnel were required to review the Staff Notes and the accompanying procedure. In addition, the new procedure was presented to all patrol police officers as part of the Department's Roll Call Training Program.

3. *Training*

All CPD supervisors received training on the procedure at the 2002 In-Service training for Supervisors held in July.

Appendix Information (Document Description – Exhibit Number)

• MHRT Certification Report	1
• MHRT Response Specialist Training course Notification	2
• Staff Notes dated April 29, 2003 – MHRT Tracking	3
• CPD Tactical Patrol Guide	4

III. USE OF FORCE POLICY

A. GENERAL USE OF FORCE POLICIES

The MOA's requirements pertaining to use of force are located in paragraphs 12 and 13.

Monitor's Previous Assessment

The Monitor's First Report evaluated the CPD Use of Force Policy that was effective on September 2, 2002. Finding that that policy did not meet the MOA's requirements with regard to general use of force policies, the Monitor noted the following three concerns about the policy:

- The policy's definition of "force" did not match the MOA definition of "force".
- The policy did not contain a "use of force" model.
- Concerns about the style and organization of the policy.

Status Update

Before the Monitor's First Report was issued, and since, the CPD has engaged in an ongoing dialogue with the DOJ in an effort to prepare a Use of Force policy that will comply with the MOA. As a result of DOJ's comments, the CPD has submitted multiple proposals for a Use of Force policy, including proposals made on or about March 28, April 23, April 25, and May 5.

The proposal submitted on April 23 contains a definition of "force" that matches the MOA's definition of "force". (See page 3 of 4/23 policy)

In addition, the proposal submitted on April 23 contained a use of force continuum. (Between pages 2 and 3 of 4/23 policy) The subsequent proposal on May 5 incorporated revisions to the use of force continuum based on correspondence with the DOJ. (See correspondence of 5/5)

The successive proposals have incorporated some changes in the style and organization of the policy which improve the overall quality of the policy. However, the CPD believes that issues of style and organization fall outside the scope of the Monitor's role.

Finally, the Monitor's First Report did not comment on the CPD's compliance with the MOA requirement that the CPD make proposed policy revisions available to the Community Councils and other community groups. The CPD Information Technology Management Section (ITMS) has posted the CPD Policy and Procedure Manual, as well as, Departmental Staff Notes on the CPD website. The Cincinnati Police Department website is located at www.cincinnati-police.org.

In the main menu portion of the website, visitors are able to register any comments, suggestions or questions. The Departmental Staff Notes is a weekly publication which notifies all CPD personnel, and now citizens, as to policy and procedure changes and other departmental news.

B. CHEMICAL SPRAY

MOA provisions pertaining to chemical spray are found at paragraphs 14, 15 and 16.

Monitor's Previous Assessment

The Monitor's First Report evaluated the CPD Use of Force Policy that was effective on September 2, 2002. Finding that the policy was in partial compliance with the MOA's chemical spray requirements, the Monitor sought the following improvements:

- Limitation on the use of chemical spray to situations in which verbal commands would be ineffective.
- Limitation on the use of chemical spray against restrained individuals.
- Training on the proper use of restraining equipment in cruisers and tracking of incidents in which transported subjects defeat restraining equipment.
- Reconsideration of how the CPD applies its chemical spray policy in the context of a person attempting to ingest narcotics.

Status Update

Before the Monitor's First Report was issued, and since, the CPD has engaged in an ongoing dialogue with the DOJ in an effort to prepare a Use of Force policy that will comply with the MOA. As a result of DOJ's comments, the CPD has submitted multiple proposals for a Use of Force policy, including proposals made on or about March 28, April 23, April 25, and May 5.

The proposal submitted on April 23 addresses the Monitor's first concern on pages 6-7. The policy now provides: "Personnel may only use chemical irritant to control a resisting subject when verbal commands and other techniques that do not require the use of force would be ineffective..."

The proposal also contains the following language intended to address the Monitor's second concern: "Officers may only use chemical irritant on a restrained individual when the restrained individual or another person is likely to suffer injury or to escape, absent the use of chemical spray." (Page 14, numbered

paragraph 3)

With regard to the Monitor's comments about training, In March/April of 2003, the Police Academy provided a two hour training block on the new 2003 Crown Victorias that included review of the operation of the restraint bar. (See Appendix for the training curriculum.) It should also be noted, however, that restraining an extremely combative individual through lap belts and/or the restraining bar referred to in the Monitor's assessment is a tactical decision left to the judgment of the individual officer. The primary purpose of the restraining bar is less to restrict movement than to hold a compliant individual in place, preventing sliding on the plastic seat as the car turns or stops. As pointed out in discussions with the Monitor, the extreme risk posed to officers attempting to secure combative individuals in these devices far outweighs the degree of possible injuries to the arrested individuals.

With regard to the Monitor's suggestions for tracking of incidents in which transported subjects defeat restraining equipment, the CPD has revised a portion of the policy to require that Inspections Section review all Officer's Reports of Non-Compliant Suspect / Arrestee for trends relating to arrestees who are able to defeat a cruiser's restraining equipment. (See page 27)

Inspections Section recently received information regarding a new alternative to the current chemical irritant used by CPD. the Inspections Section will consider its effectiveness and include the findings in the August 2003 Status Report. CPD will also use this review process to investigate the effects of the irritant as a deterrent to those individuals attempting to ingest contraband while under police control or custody.

C. CANINES

The MOA provisions relating to canine policy are located in paragraph 20.

Monitor's Previous Assessment

The Monitor's First Report observed that the DOJ approved the CPD's canine policy that was proposed on January 30, 2003, and noted that the policy complies with the MOA.

Status Update

The revised canine policy was placed into effect and published in the Department Staff Notes dated April 29, 2003. All CPD personnel were required to review the Staff Notes and accompanying procedure. As a result of the revisions, new reporting forms were developed to document canine deployments and/or canine bites:

Form 18C – Canine Bite Report
Form 18CD – Canine Deployment Report.

The Canine Unit is currently entering the information captured from these reports into a Canine Tracking Database. The bite ratios will be derived from that database. This information will eventually be entered into the new Risk Management System.

D. BEANBAG SHOTGUNS / 40mm FOAM ROUNDS

The MOA provisions relating to beanbag shotguns and 40mm foam rounds are located in paragraphs 21, 22 and 23.

Monitor's Previous Assessment

Having evaluated the CPD's Use of Force policy that had been proposed on September 2, 2002, the Monitor's First Report found two areas where the CPD's policy is inconsistent with MOA requirements:

- The use of beanbag shotguns is not limited to subduing or incapacitating subjects to prevent imminent harm to the officer or others.
- The policy does not advise officers that use of the beanbag weapon may be inappropriate even in cases where not using it might allow the suspect to escape.

Status Update

Before the Monitor's First Report was issued, and since, the CPD has engaged in an ongoing dialogue with the DOJ in an effort to prepare a Use of Force policy that will comply with the MOA. As a result of DOJ's comments, the CPD has submitted multiple proposals for a Use of Force policy, including proposals made on or about March 28, April 23, April 25, and May 5.

The April 23 proposal contained the following language that addresses the Monitor's second concern: "In certain circumstances, it may be inappropriate to use these impact projectile tools, even if the only alternative is to allow the subject to escape." (Page 5)

On May 5, the CPD proposed the following revision to its policy, which addresses the Monitor's first concern:

We will remove the sentence on page five of the [April 23] policy that currently reads: "Beanbag shotguns and 40mm foam rounds may only be used to subdue or incapacitate a subject to prevent imminent physical harm to the officer or another person." We will replace that sentence with

this one: “Beanbag shotguns and 40mm foam rounds may only be used to subdue or incapacitate a subject to prevent imminent physical harm.” (See May 5 correspondence)

Appendix Information (Document Description – Exhibit Number)

• Procedure 12.545, Use of Force (Submitted to DOJ April 23, 2003)	5
• Procedure 12.140, Canine Operations	6
• 2003 Crown Victoria Police Interceptor Training Lesson Plan	7
• Staff Notes Dated April 29, 2003 – Revised Procedure 12.140; Canines	8
• Table 14-2 – Group Chemical Irritant Deployment Summary	9
• Table 14-3 – Verbal Commands / Chemical Irritant Summary	10
• Table 14-4 – Chemical Irritant Decontamination Summary	11
• Table 14-5 – Chemical Irritant Restrained Individual Summary	12
• Table 18-1 – Chemical Irritant Distribution	13
• Table 20-1 – Canine Deployment Summary	14
• Table 20-2 – Canine Bite Summary	15

IV. INCIDENT DOCUMENTATION, INVESTIGATION & REVIEW

A. DOCUMENTATION

The MOA provisions relating to documentation are located in paragraph 24.

Monitor's Previous Assessment

The Monitor's First Report evaluated the September 2, 2002, Use of Force policy. While the Monitor noted that the CPD's policy partially complied with the requirements of the MOA, the Monitor expressed some concerns about the content of the forms CPD uses for documenting uses of force.

Status Update

Before the Monitor's First Report was issued, and since, the CPD has engaged in an ongoing dialogue with the DOJ in an effort to prepare a Use of Force policy that will comply with the MOA. As a result of DOJ's comments, the CPD has submitted multiple proposals for a Use of Force policy, including proposals made on or about March 28, April 23, April 25, and May 5.

Each successive proposal has narrowed the issues between the DOJ and the CPD. With the most recent correspondence – a letter dated May 5 from the City to the DOJ – the CPD believes that the last remaining issue involves the interpretation of paragraph 24. Because paragraph 24 sets forth the levels of documentation required for various types of uses of force, the interpretation given paragraph 24 significantly affects force reporting.

MOA paragraph 24 requires the CPD to report uses of force “in the same manner as the CPD currently reports incidents it classifies as uses of force.” As used in that particular section of the MOA, the word “currently” refers to the execution of the agreement. When the MOA was executed, the CPD did not consider takedowns or hard hands to be uses of force, unless the takedown or hard hands resulted in a subjective complaint of injury or an obvious injury to the subject. Therefore, the CPD did not have a reporting requirement for takedowns or hard hands, unless a takedown or hard hands resulted in an injury or complained-of injury. Obviously, the phrase “except to the extent those reporting requirements have been modified by this Agreement” cannot apply to requirements that did not exist at the time the Agreement was written.

Accordingly, CPD believes that the reporting requirements contained in paragraph 24 – i.e. the requirements that a supervisor respond to the scene to investigate every use of force and that audiotaped statements be taken of officers and witnesses after every use of force – do not apply to takedowns and hard hands that

do not result in an objective or subjective injury to the subject. As far as the CPD is aware, this is the last remaining issue between CPD and DOJ regarding the Use of Force policy.

On April 23, 2003, CPD submitted a revised and restructured version of Procedure 12.545, Use of Force, to the Monitor for review. Included in this revision is a force reporting protocol CPD believes meets the requirements of MOA paragraph 24. The current versions of the force reporting forms have also been sent to the Monitor for review. Based upon subsequent recommendations made by the Monitor, CPD will pursue force reporting form revisions to address the concerns cited above.

B. INVESTIGATION

The MOA provisions relating to investigation are located in paragraphs 26, 27, 28, 29, 30 and 31.

Monitor's Previous Assessment

The Monitor noted that the September 2, 2002, Use of Force policy met many of the requirements of the MOA. However, the Monitor expressed the following remaining concerns:

- The policy does not include notice to a supervisor upon an allegation of excessive force.
- It appears as though IIS will investigate only if there is serious injury or hospital admission, rather than investigating any injury resulting from the use of a canine.

Status Update

The policy proposed on April 23 contains the following language, which addresses the Monitor's first concern: "All members of the CPD have a duty to ensure that use of force and *any citizen allegation of excessive force* is reported to the Police Department. Whenever employees use deadly force, force, hard hand tactics, chemical irritant, or confronts resistance that results in an injury or complained of injury to a citizen, or have knowledge of any of the above, or *are aware of a citizen complaint of excessive force they will immediately notify a supervisor.*" (Emphasis added, see page 2) In addition, the force reporting protocol contained on page 16 specifies that a supervisor will be called to the scene whenever there is any use of force resulting in an allegation of excessive force.

The force reporting protocol that appears on page 16 also addresses the Monitor's concern about the reporting of injuries that result from the deployment of a canine.

C. REVIEW OF CRITICAL FIREARMS DISCHARGES

The relevant provisions of the MOA are located at paragraphs 32, 33 and 34.

Monitor's Previous Assessment

In the Monitor's First Report, the Monitor noted that the CPD is in compliance with the requirements of the MOA, and made no further comments.

Appendix Information (Document Description – Exhibit Number)

• Procedure 12.545, Use of Force (Submitted to DOJ April 23, 2003)	16
• Procedure 12.140, Canine Operations	17
• Procedure 12.550 – Discharging Firearms by Police Personnel	18
• City Correspondence to Department of Justice regarding CPD use of force protocol dated April 25, 2003.	19
• City Correspondence to Department of Justice regarding CPD use of force protocol dated May 5, 2003	20

V. CITIZEN COMPLAINT PROCESS

A. OPENNESS OF THE COMPLAINT PROCESS

Paragraphs 35 and 36 of the MOA deal with the openness of the complaint process.

Monitor's Previous Assessment

The Monitor's First Report found the CPD in compliance with the MOA and noted a desire to continue to evaluate the availability of forms and access to the complaint process.

Status Update

In order to ensure that the complaint process remains open and available to citizens, an ongoing inspection process has been implemented to ensure CPD vehicles are equipped with a supply of the informational materials and complaint forms. The Vehicle Inspection Report (Form 427) documents the bi-weekly inspection and inventory process.

In addition:

- Citizen complaint forms have been prominently placed in the lobby of the Internal Investigations Section.(IIS)
- Citizen Complaint Forms are taken to each Citizen Complaint Authority(CCA) meeting and a member of the IIS staff is present to take any complaints citizens wish to file.
- The IIS Commander will be a panelist at a forum hosted by the Women's City Club on Citizen Complaints and the role of CPD and the CCA, scheduled for May 14, 2003.
- Citizen Feedback Program Overview for the first quarter of 2003 was published in the Department Staff Notes dated April 29, 2003.
- CPD has designed a process to track the availability of forms. Implementation of these processes will be achieved by making revisions to Procedures 12.170 (Civil Disturbance Operation Procedure), 12.190 (Police Substations), and 15.100 (Citizen Complaints). Those revisions are currently in progress.

B. MEANS OF FILING AND TRACKING COMPLAINTS

Paragraphs 37 and 38 of the MOA deal with the tracking and filing of complaints.

Monitor's Previous Assessment

The Monitor's First Report did comment on the CPD's compliance with the MOA in this regard.

Status Update

To facilitate the sharing of complaint information, IIS and CCA are currently working on enhancing the IIS Microsoft Access database. Once completed, both investigative bodies will have ready access to the other's complaint information.

Once received, CPD enters the complaint information into a database maintained by the IIS. The unique tracking numbers described in MOA paragraph 37 is assigned during this process.

C. INVESTIGATION OF COMPLAINTS

Paragraphs 39, 40, 41, 42, 43, 44 and 45 of the MOA deal with the investigation of complaints.

Monitor's Previous Assessment

The Monitor's First Report found the CPD in partial compliance with the MOA. However, the Monitor expressed the following concerns:

- How complaints are allocated between IIS and Field Patrol Supervisors
- Neither the complaint procedure nor IIS SOPs describe standards to be used for the investigation as laid out in the MOA. Additionally, the policy does not address how the complainant will be periodically kept informed regarding the status of the investigation.

Status Update

Although CPD previously disagreed with DOJ regarding the MOA complaint closure terms being applied to the CCRP process, CPD has since agreed to make the appropriated determination and record these dispositions on the CCRP investigation prior to closure. Procedure 15.100, Citizen Complaints, is currently being revised to reflect the change.

To address the remaining concerns registered by the Monitor, CPD has taken the following action:

- On April 23, 2003, a meeting was held with the Monitor to better explain CCRP. The policy portion of Procedure 15.100, Citizen Complaints, is being

revised by the Internal Investigation and Planning Sections to better reflect the actual routing and assignments of complaints. The procedure will be further revised to clarify that complaint assignments will be the responsibility of the Bureau Commander in charge of the Internal Investigations Section.

- IIS standard operating procedures #103.20, Investigator Duties, and #104.12, Investigation of Complaint, have been revised to specifically delineate investigator and case investigation duties.
- IIS investigators have attended the Reid Basic and Advanced Interview and Interrogation courses. Ten out of the eleven unit investigators have attended the Internal Investigations 40-hour course offered by the Institute for Police Technology and Management. The final member will attend that course later this year. Various unit members have also attended additional training seminars on internal investigation.
- IIS has developed a case tracking report, which will be attached to each case when assigned to the investigator. The report will include the complainant notification information. A copy of this report was provided to Richard Jerome during the last Monitor site visit. IIS is revising the form for distribution to all units to provide a standardized cover sheet for all CCRP complaints.

As requested, the closed fourth quarter CCRP cases were sent to the Monitor for review on May 7, 2003.

D. ADJUDICATION OF COMPLAINTS

Monitor's Previous Assessment

The Monitor's First Report found the CPD in partial compliance with the MOA regarding the adjudication of complaints. However, the Monitor noted:

- Under the MOA, the CPD must make a determination as to the appropriateness of the officer's behavior, regardless of whether or not the citizen is satisfied in a resolution meeting, or participates or not in the CCRP process.
- The policy does not contain the required disposition terms.

Status Update

The concerns expressed by the Monitor suggest that resolutions of CCRP complaints are solely dependent upon the degree of complainant participation or satisfaction with the process. To be clear, the CCRP process is comprised of four

distinct parts: complaint intake; investigation; feedback to the officer; feedback to the citizen

Investigation and disposition of the complaint occurs before the complainant is asked to engage in the resolution meeting process. If the officer's behavior is found not to have met Department standards, the investigating supervisor, in accordance with the Disciplinary Matrix, has the ability to initiate the following courses of action: oral counseling; written counseling; corrective action; request initiation of the disciplinary process; if applicable, request reassignment of the matter to IIS for investigation and disposition.

To ensure the CCRP closure report contains the provisions outlined in paragraph 48 of the MOA, CPD conducted another review of the CCRP outline and training materials described above. CPD again believes these materials meet the objectives and the requirements called for in the MOA.

Additional training and review of the CCRP process and related training materials will be provided to field supervisors in the District Staff Meeting setting. The review will focus on the Department's commitment to conduct thorough inquiries, properly adjudicate, and if necessary, take appropriate action, when investigating incidents involving alleged misconduct.

E. CCA

CCA has made the following progress:

The CCA Executive Director has established a regular meeting session with a designee of the Police Chief to review and discuss case flow issues to assure that all complaint, excluding criminal investigations, are directed to the CCA in a timely manner.

CCA began initiating independent investigation of all complaints within its jurisdiction on January 6, 2003. CCA has processed on hundred and fifty one complaints since the beginning of its operation. CCA has initiated independent investigations into seventy-one of those complaints. Thirty-two of the complaints involved allegations of excessive force. CCA has also completed most of the outstanding citizen complaints previously being investigated by the Office of Municipal Investigations.

Four full time permanent investigators were put in place by April 7, 2003. CCA has retained two acting investigators until full staffing levels are reached. CCA anticipated hiring a fifth investigator by July 1, 2003.

Appendix Information (Document Description – Exhibit Number)

• Procedure 12.170; Civil Disturbance Operation Procedure (Draft)	21
• Procedure 12.190; Police Substations (Draft)	22
• Procedure 15.100; Citizen Complaints (Draft)	23
• Form 103A; Facility Security and Maintenance Inspection Report	24
• Form 17MS; Monthly Substation Inspection Report	25
• Citizen Feedback/Complaint Form Quarterly Checklist Report	26
• IIS Standard Operating Procedure 103.20; Investigator Duties	27
• IIS Standard Operating Procedure 104.12; Investigation of Complaint	28
• IIS Investigator Training Records	29
• CCRP Training Material and Template	30
• Staff Notes Dated April 29, 2003 – Citizen Feedback Program Overview	31

VI. MANAGEMENT AND SUPERVISION

A. RISK MANAGEMENT AND SUPERVISION

Paragraphs 57-66 of the MOA are relevant to risk management and supervision.

Monitor's Previous Assessment

The Monitor's First Report found that the CPD had not yet complied with provisions of the MOA dealing with risk management and supervision. In particular, the Monitor noted:

- The lack of internal coordination concerning IT requirements.
- The degree of customization of CRISNet's products that is necessary
- The CPD has not yet developed a protocol for using the Risk Management System.
- There may be existing databases and resources that are not being fully utilized.

Status Update

Currently, the CPD is reviewing a final draft contract and anticipates submitting it for signatures in the next reporting period. A copy of the contract was provided to the Monitoring Team for their review and was subsequently discussed during a conference call on May 2, 2003. Comments and questions from the Monitoring Team were addressed and certain modifications were made to the draft contract. The following dates have been established as goals for the project start: May 15, 2003 contract fully executed and June 2, 2003 as the project kick off.

The CHRISNet solution will require some customization but all the proposals submitted required customization. The committee that reviewed the proposals recommended CRISNet because they believed the CHRISNet solution best meets our needs for this project and there is room for growth within the system. The CHRISNet solution was also recommended because of the user friendliness of the system, which will help with end user training. CPD will begin to work on the "Data Input Plan" as well as a detailed "Protocol" as the solution is being developed and implemented.

IIS and personnel databases will not link to the CRISNET solution. The solution will absorb these databases along with the other related databases to form one large database. The old data contained in the existing databases will be converted over into the CRISNET solution. There will be a limit on the analysis of this data

because the new solution will capture more information to perform the required analysis as outlined in the RFP and proposed protocol. The only database that a link or interface is planned for is the CHRIS System (Peoplesoft). There is currently no Record Management System (RMS) in place to link. The process has been started to develop a RMS but this will take several years to complete. The ETS will be in place before an RMS. The requirements for the RMS will include the need to interface to the ETS.

There are current databases for all categories planned to be contained within the ETS except one, missed court. All criteria outlined in the MOA is currently being captured in these existing databases. This information is being used to monitor officers' involvement in these identified risk activities. ITMS helps the units responsible for inputting the data by developing reports and addressing issues as they arise. The data is currently input by staff of the unit responsible for the database. The new system will eliminate the need to re-enter the information because the original author will have already entered the information. Once reports are reviewed for completeness and accuracy, Inspections will upload the information into the ETS. All supervisors will be able to see information that pertains to their employees as the rules allow.

ITMS, along with IIS, has met with Nate Ford, Executive Director of the Citizens Complaint Authority (CCA). The purpose of the meeting was to address the issue of shared information between the CCA and IIS. The discussion was not only for the current database at IIS but also the future ETS. Mr. Ford currently has a copy of the IIS user manual to help him determine his needs. Once this determination is made by CCA, a joint resolution to information sharing will be reached.

B. AUDIT PROCEDURES

Paragraphs 67-69 of the MOA deal with Audit Procedures.

Monitor's Previous Assessment

The Monitor's First Report found the CPD in partial compliance with the MOA. The Monitor indicated improvements were needed in the following respects:

- CPD supervisors are not adjudicating CCRP cases in accordance with the MOA.
- Inspections needs to work with IIS on the quality of investigations.
- Monitor will review documentation of bi-monthly meetings between CPD and prosecutors.

Status Update

Since the Monitor's First Report was issued, the CPD has taken the following measures to ensure compliance with the MOA's audit requirements:

- Developed an Inspections Section Audit/Inspection Function Schedule.
- Held meetings on 2/12/03 and 4/1/03 with local prosecutors to identify shift or unit performance issues. The Inspections Section has documented the meetings via Interdepartmental Correspondence.
- Conducted IIS case audit and filed summary report on 2/20/03.
- Conducted Police Recruit Background Investigations Audit; filed summary report on 4/16/03.
- Completed Extension of Police Services Detail Inspection Audit; filed summary report on 11/28/02.
- Conducted Property Room audit and destroyed contraband on 3/6/03.
- Conducted monthly inspection of CPD personnel attending court; filed summary report on 3/26/03
- Conducted Pre-Public Auction audit on 4/23/03.
- Random drug testing for CPD sworn personnel administered by the Inspections Section on a monthly basis with the appropriate reports on file.

Finally, regarding Inspections Section failure to note the fact that CPD supervisors are not adjudicating CCRP investigations in accordance with the MOA, CPD believes the structure and the wording of the agreement has created confusion. Paragraph 44 of the MOA outlines the allowable dispositions for an investigation as Unfounded, Sustained, Not Sustained, and Exonerated. However, paragraph 48 of the MOA specifically addresses CCRP investigations and states, in part, "The report will include a description of the incident, evidence gathered during the investigation, proposed findings regarding whether the conduct comports with CPD policy, and analysis supporting the findings." CPD is currently working with the DOJ to resolve this issue.

C. VIDEO CAMERAS

MOA Paragraphs 70-72 deal with video camera requirements.

Monitor's Previous Assessment

The Monitor's First Report found the CPD in partial compliance with the MOA. The Monitor expressed a desire to further evaluate:

- Plans to fully equip remaining one-third of cruisers with video equipment.
- Whether supervisors are reviewing tapes as part of investigations.
- Whether video equipment in cruisers is kept in working order.

Status Update

Procedure 12.537 standardizes the review process. The relief Officer in Charge (OIC) is to randomly review tapes twice per week and note these review in the daily rounds. All supervisors are to conduct random reviews and document those reviews in the Mobile Video Recorder logbook.

Although plans to equip the remaining third of the fleet with cameras have been considered, advances in the camera technology have caused CPD to reevaluate all the options available. Digital technology promises a great deal of improvement in the following areas: image clarity; range of camera angles; durability; storage retrieval; electronic attachment of the image to the related incident report now becomes possible. This will also be a capability of the future Employee Tracking System.

As resources become available, CPD will look toward equipping the fleet with digital technology.

Although not all CPD vehicles are not yet equipped, Procedure 12.537 ensures that camera equipped vehicles are fielded whenever possible:

D.d. Assign police vehicles with faulty MVR equipment only as a last resort.

D.d.2 Supervisors will note in their rounds why equipment without functioning MVR equipment was used.

D. POLICE COMMUNICATIONS TECHNOLOGY

MOA Paragraphs 73 and 74 relate to police communications technology.

Monitor's Previous Assessment

The Monitor's First Report finds the CPD in compliance with the MOA.

Status Update

Since the Monitor's First Report was issued, the CPD has taken further steps to upgrade police communications technology. In particular:

- Motorola is in the process of completing the infrastructure necessary to support a new radio system. The vendor is maintaining the construction timeline with the system projected to come on line during the third quarter of 2004.
- Replacement of the current 911 Phone System with a state of the art computer based system is currently underway. A selection committee consisting of police and fire communications personnel reviewed the initial system requirements prior to the City posting the Request for Proposal (RFP). After reviewing the proposals and vendor demonstrations, the Selection Committee chose Cincinnati Bell/Palladium as the vendor of choice. On March 26, 2003, the Police Department signed a contract with the selected vendor. The City has allocated \$650,017.42 towards this project.
- The Police Department has requested the City allocate funds to upgrade the current CAD system. The City has placed the CAD replacement on the Capital Improvement Program and has allocated \$2,492,200.00 over three years beginning in 2003. Communications Section is currently researching CAD replacement technology. The CAD RFP will be sent out in conjunction with the Police Department's Records Management System RFP later this year.

E. DISCIPLINE AND PROMOTIONAL POLICY

MOA Paragraphs 75-76 are relevant to discipline and promotional policy.

Monitor's Previous Assessment

The Monitor's First Report finds the CPD in compliance with the MOA.

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VII. TRAINING

A. MANAGEMENT OVERSIGHT AND CURRICULUM

MOA Paragraphs 77 – 87 are relevant to management oversight of training and training curriculum.

Monitor's Previous Assessment

The Monitor previously noted that he was unable to evaluate most areas of CPD's training.

Status Update

The training curriculum was last reviewed on January 7, 2003, by the CPD Curriculum Committee.

All police Academy instructors are selected through a competitive process that reviews experience, supervisory ratings, background examination, and includes a personal interview. Once selected, all members of the training staff are required to complete the necessary Ohio Peace Officer Training Academy (OPOTA) courses and any other training deemed necessary.

All OPOTA standards for all training, as well as requirements for instructors, are found in the State Administrative Code 109:2-1-06(A) and (B). All OPOTA certified instructors are required to complete a basic 40-hour Instructor's Course. In addition to the basic course, a specialty course may be required. (For example, an OPOTA certified Firearms Instructor will have to complete the basic 40-hour course plus an additional 32 hour course in firearms training.)

The Director of the Police Academy, the Assistant Director of the Police Academy and Police Academy supervisors regularly review all training. The Police Academy conducts ongoing needs assessments for training, as well as responding to mandates, legislative changes or court decisions.

All training is pre-approved by the Academy Director and the Police Chief. Police Academy staff regularly monitors training to ensure compliance.

Use of Force Training: The Police Academy provides a heavy volume of Use of Force training in a variety of formats covering both general and specific topics. Policy review, which includes the use of force model, is done regularly as part of roll call training. The policy is also reviewed as part of firearms training. Decision making is emphasized as part of scenario review in roll call training and is an integral part of the FATS system training. Fourth Amendment requirements are part of the written policy and are also reinforced in discussion of the roll call scenarios. The FATS training provides interactive exercises in use of force.

Proper usage of CI is routinely discussed in roll call training and is specifically addressed during firearms training. De-escalation techniques, including those specifically listed in the agreement, have been included in the department's Use of Force policy. In 2002, the Police Academy began providing additional training on vehicle stops tactics which included extraction subjects from vehicles. Threat assessment is routinely reviewed as part of the roll call training program and reinforced in FATS training. Scenarios on dealing with people with mental illness are included in the roll call training program. Factors in initiating or continuing a pursuit are also reinforced in the roll call training program. The schedules of roll call training showing the individual topics for each day are attached for documentation.

Citizen Complaint Training: Training in handling citizen complaints is provided as part of new supervisors' training. A presentation from CCA personnel was included in the New Supervisor's Training Program completed in 2003. Recruit training includes review of citizen complaints including a presentation by IIS and a presentation by CCA will be included in the upcoming recruit class. (CCA was not in existence during the last class.)

Leadership Training / Command Accountability: This material is covered in CPD Supervisor's Training. This training is provided prior to or immediately after promotion. Whenever possible, CPD makes it a priority to send supervisors to some of the most prestigious police command and leadership schools in the nation. Among these programs are the following: Southern Police Institute; Federal Bureau of Investigation National Academy; Police Executive Leadership College; Northwestern University – School of Police Staff and Command.

Canine Training: The revised canine policy was published in the Department Staff Notes dated April 29, 2003. All CPD personnel were required to review the Staff Notes and accompanying procedure. As a result of the revisions, new reporting forms were developed to document canine deployments and/or canine bites: Form 18C – Canine Bite Report and Form 18CD – Canine Deployment Report.

In addition, there are special training requirements for canine trainers:

- Must be a member of the United States Police Canine Association (USPCA)
- Trainers must have been a canine handler for a minimum of five years and have graduated from a police canine course.
- The trainers standards must meet all local and area requirements and conform to the standards set forth by the USPCA.

There are special requirements for canine teams as well:

- Recertification every two years by the State of Ohio and annually by the USPCA.
- Regular In-Service Training and corresponding training logs.

CPD anticipates having one USPCA Level 1 trainer and two USPCA Certified Regional Trainers in the Canine Unit.

CPD believes the Cincinnati Police Department Basic Canine Training Course Syllabus meets the requirements of the MOA. Appendix IV to the Special Services Section Standard Operating Procedures reinforces the goals and objectives of the program. Specifically, Standard Operating Procedure 430.35 imposes additional requirements:

Scenario-Based Training: Since the inception of the Roll Call Training Program administered by the Training Section, scenarios encountered by the CPD, as well as other departments, have been presented to field officers for review and critique. The scenarios are discussed among officers and supervisors to consider all the available legal and tactical options. The Training Section will identify on the scenario itself when it is related to a CPD incident.

CPD / Solicitor Meetings: Because legal actions are the administrative responsibility of the Planning Section, this unit will handle this MOA requirement. Planning Section Standard Operating Procedure 400.40 requires such meetings to be held quarterly. Present at these meetings will be the following: Administration Bureau Commander; Planning Section Commander; Training Section Representative; Chief Counsel of Litigation. Planning Section will document the occurrence of and summarize these meetings.

C. FTO'S

MOA Paragraphs 88-89 deal with the training of field training officers.

Monitor's Previous Assessment

The Monitor's First Report indicated that the CPD had made some progress in the area of training FTO's, but that CPD was not yet fully compliant.

Status Update

The Training Committee evaluated the FTO Program and made improvement recommendations that were incorporated in revised Procedure 13.100, Field Training Officer Program. The revised procedure has been implemented and contains the provisions required in MOA paragraphs 88 and 89. (The requirements in paragraph 88 are found in Sections G., H., and I of the revised procedure and the requirements in paragraph 89 are located in Section H.3.b) In addition, the performance of an individual FTO will be reviewed at least bi-

annually, with re-certification dependant on satisfactory prior performance and feedback from the Training Academy.

CPD has further revised FTO Procedure 13.100 to include a review of the individual's complaint history and disciplinary history into the FTO selection criteria. Finally, the modified the procedure now requires the Training Director to review and reappoint FTOs.

D. FIREARMS TRAINING

MOA Paragraphs 90-91 are relevant to firearms training.

Monitor's Previous Assessment

The Monitor previously found that CPD is making a good faith effort to critically observe students in firearms training and provide corrective instruction. The Monitor also observed that CPD is making a good faith effort to comply with annual requalification requirements. However, the Monitor wanted to review additional documentation.

Status Update

The Training Section will provide for a review of the documentation associated with suspension of police powers of officers failing to qualify. Since these are records related to specific individuals, we will have them available to review by the monitoring team.

See also following items in Appendix:

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